

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

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FILE: B-211937**DATE:** November 14, 1983**MATTER OF:** R. E. White & Associates, Inc.**DIGEST:**

Where solicitation required that equipment be new, unused, and not reconditioned, offer of used, overhauled items was properly rejected as unacceptable under terms of solicitation.

R. E. White & Associates, Inc. protests the award of a contract to Lewis Engineering Company under request for quotations (RFQ) No. DLA400-83-T-9633, issued by the Defense General Supply Center, Defense Logistics Agency (DLA), for 35 temperature indicators to be used to monitor overheating of aircraft engines. DLA rejected White's offer of \$235.00 per item because White offered used surplus items which DLA found to be unacceptable. The contract price is \$255.39 per item. We deny the protest.

The solicitation was issued on December 17, 1982 and incorporated by reference the clauses entitled "NEW MATERIAL (1965 JAN)" and "GOVERNMENT SURPLUS (1965 JAN)." These clauses basically provide that supplies and components furnished under the contract are required to be new (not used or reconditioned, and not of such age or so deteriorated as to impair their usefulness or safety) and serviceable without rework or refurbishment of any kind. There was no provision in the solicitation authorizing the furnishing of anything but new material.

In response to the RFQ, White offered to furnish used surplus items that had been refurbished, overhauled and tested. Further, the agency states that the item offered by White was not the identical item solicited since it measured heat in centigrade and therefore required modification and recalibration. Since the RFQ did not authorize the furnishing of anything but new material, the procuring

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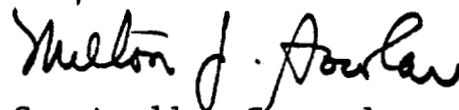
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activity contacted the responsible engineering activity which advised that the used overhauled parts were not suitable for aircraft usage and that surplus material must be new, unused, and not reconditioned. In view of this advice, the contracting officer determined that the offer submitted by White was unacceptable and awarded the contract to Lewis on May 15, 1983.

White contends that the rejection of its offer was arbitrary and capricious and that the award to Lewis was not in the best interests of the government. White maintains that it has previously supplied used, serviceable temperature indicators to the government on five separate occasions without having received any complaints from users.

We have held that in the absence of any language in the solicitation indicating that the item in question need not be new, the furnishing of new supplies, either new surplus or newly manufactured, as required by the "NEW MATERIAL" clause, is mandatory. See 47 Comp. Gen. 390, 396 (1968); D. Moody & Co., Inc., B-178591; B-178970, February 4, 1974, 74-1 CPD 48. Therefore, since the solicitation contained a requirement that new surplus or new manufactured equipment had to be furnished, we conclude that the rejection of White's offer was proper.

The protest is denied.



Acting Comptroller General
of the United States